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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

8 Mitchell Theophilus Garraway,)

No. CV-15-02163-PHX-SPL

9 Petitioner,)

ORDER

10 vs.)

11 K. Tracey, Warden,)

12 Respondent.)
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15 Mitchell Theophilus Garraway, at the time of the Petition, was incarcerated in FCI
16 Phoenix, Arizona. The Petitioner was convicted of murder by a General Court-Martial
17 while serving in the United States military. He filed a *pro se* Petition for Writ of Habeas
18 Corpus by a Person in Federal Custody pursuant to 28 U.S.C. § 2241 (Docs. 1, 2).
19 Respondent filed an Answer (Doc. 16), and Petitioner filed a reply (Doc. 17). United
20 States Magistrate Judge Deborah M. Fine has issued an Amended Report and
21 Recommendation (“R&R”) recommending that the Court dismiss the petition (Doc. 21).
22 The Petitioner timely filed Objections to the R&R (Doc. 23), and the Respondent filed a
23 Response in Opposition to the Petitioner’s Objections to the R&R (Doc. 24). Petitioner
24 does not object to the correctness of the factual background in the R&R, which the Court
25 adopts and incorporates. For the following reasons, the Court accepts and adopts the
26 R&R, and denies the petition.

27 A district judge “may accept, reject, or modify, in whole or in part, the findings or
28 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b). When a party files

1 a timely objection to an R&R, the district judge reviews *de novo* those portions of the
2 R&R that have been “properly objected to.” Fed. R. Civ. P. 72(b). A proper objection
3 requires specific written objections to the findings and recommendations in the R&R. *See*
4 *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003); 28 U.S.C. §
5 636(b)(1). It follows that the Court need not conduct any review of portions to which no
6 specific objection has been made. *See Reyna-Tapia*, 328 F.3d at 1121; *see also Thomas v.*
7 *Arn*, 474 U.S. 140, 149 (1985) (discussing the inherent purpose of limited review is
8 judicial economy). Further, a party is not entitled as of right to *de novo* review of
9 evidence or arguments which are raised for the first time in an objection to the R&R, and
10 the Court’s decision to consider them is discretionary. *United States v. Howell*, 231 F.3d
11 615, 621-622 (9th Cir. 2000).

12 Petitioner objected to the R&R arguing Judge Fine failed to properly distinguish
13 the facial differences between the Naval Clemency and Parole Board and the United
14 States Parole Commission’s regulations. He further objected that Judge Fine improperly
15 added an additional element to the ex post facto clause and failed to consider the way his
16 punishment was increased by the United States Parole Commission (Doc. 23).

17 The Court has undertaken an extensive review of the issues presented in the
18 Objections. Petitioner has not shown that he is entitled to habeas relief pursuant to 28
19 U.S.C. § 2241. Having carefully reviewed the record as a whole, and finding none of
20 Petitioner’s objections have merit, the R&R will be adopted in full. Accordingly,

21 **IT IS ORDERED:**


22 1. That Magistrate Judge Fine’s Amended Report and Recommendation (Doc.
23 21) is **accepted** and **adopted** by the Court;

24 2. That the Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241
25 (Docs. 1, 2) is **denied** and this action is **dismissed with prejudice**;

26 3. That a certificate of appealability and leave to proceed *in forma pauperis* on
27 appeal are **denied** because Petitioner has not made a substantial showing of the denial of
28 a constitutional right; and

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4. That the Clerk of Court shall **terminate** this action.
Dated this 28th day of June, 2017.


Honorable Steven P. Logan
United States District Judge